

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

KATHERINE BELCASTRO GONZALEZ,	)	CASE NO. 8:19CV572
	)	
Plaintiff,	)	
	)	
v.	)	
	)	<b>PLAINTIFF'S BRIEF IN SUPPORT</b>
CITY OF OMAHA, a Municipal	)	<b>OF MOTION TO STRIKE PORTIONS</b>
Corporation, TODD SCHMADERER,	)	<b>OF AFFIDAVIT</b>
Chief of Police of the Omaha Police	)	
Department, in his official and individual	)	
Capacity	)	
	)	
Defendants.	)	

COMES NOW the Plaintiff, by and through her attorneys, and hereby submits the following Brief in Support of Plaintiff's Motion to Strike Portions of Affidavit.

The following portions of Thomas Shaffer's affidavit (ECF Filing No. 157-1) are inadmissible hearsay under Rules 801 and 802 of the Federal Rules of Evidence and should be stricken:

1. That portion of Paragraph 5 of Thomas Shaffer Affidavit in which he stated "who made a comment about my testimony.";
2. All of Paragraph 6 of Thomas Shaffer Affidavit;
3. All of Paragraph 9 of Thomas Shaffer Affidavit; and
4. All of Paragraph 10 of Thomas Shaffer Affidavit.

*See* Fed.R.Evid. 801 (providing that hearsay is an out-of-court statement that is offered for the truth of the matter asserted) and Fed.R.Evid. 802 (providing that hearsay is inadmissible). Plaintiff asserts that such information contained in those portions do not fall within an exception to the hearsay rule and thus should be stricken and excluded from evidence.

**CONCLUSION**

For all of the reasons set forth above, Plaintiff respectfully requests that the Court grant the Plaintiff's Motion to Strike certain portions of the Affidavit of Thomas Shaffer (ECF Filing

No. 157-1).

KATHERINE BELCASTRO-GONZALEZ,  
Plaintiff

BY: s/Thomas M. White  
Thomas M. White #17452  
Amy S. Jorgensen, #23215  
WHITE & JORGENSEN  
3114 St. Mary's Avenue  
Omaha, Nebraska 68105  
(402) 346-5700

ATTORNEYS FOR PLAINTIFF

### **CERTIFICATE OF COMPLIANCE**

Pursuant to NECivR 7.1(d)(3), I hereby certify this brief complies with the requirements of NECivR 7.1(d)(1). Relying on the word-count function of WordPerfect Office X5, this document contains 245 words. The word-count function was applied to all text, including the caption, headings, footnotes and quotations.

s/Thomas M. White

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 16, 2022, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which sent notification of such filing to Defendants' attorney, Michelle Peters, City of Omaha, 1819 Farnam Street, Suite 804, Omaha, NE 68183.

s/Thomas M. White  
Thomas M. White